

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-50586 of 2007

.....

Date of decision:5.11.2007

Krishan

.....Petitioner

v.

Sushila

.....Respondent

....

Present: Mr. A.S. Sullar, Advocate for the petitioner.

.....

S.S. Saron, J. (Oral)

Heard learned counsel for the petitioner.

This petition under Section 482 Cr.P.C. has been filed seeking quashing of the order dated 8.9.2007 (Annexure-P.1) passed by the learned Sessions Judge, Sirsa. In terms of the said order the interim maintenance @ Rs.700/- per month granted by the learned Judicial Magistrate Ist Class, Sirsa vide order dated 11.5.2007 (Annexure-P.2) has been enhanced to Rs.2500/- per month. Besides, the application has been allowed from the date of filing the petition under Section 125 Cr.P.C. i.e. from 2.8.2006.

The petitioner Krishan was married to Smt. Sushila (respondent) on 23.6.1999. On the allegations that she has not been properly looked after, she filed a petition under Section 125 Cr.P.C. for the grant of maintenance. She also claimed interim maintenance of Rs.2,500/- per month. The learned Judicial Magistrate Ist Class vide order dated

11.5.2007 observed that the petitioner has no regular income and he is dependent on agricultural produce which generally comes after six months. Moreover, the land was stated to be 'Barani' land. Rs.700/- per month was fixed as interim maintenance to the petitioner from the date of passing the order i.e. from 11.5.2007. The respondent Smt. Sushila filed a revision against the same and the learned Sessions Judge, Sirsa after reference to the revenue record has enhanced the maintenance to Rs.2,500/- per month from the date of application keeping in view the agricultural land falling to the share of the petitioner.

Learned counsel for the petitioner has submitted that the impugned order dated 8.9.2007 is absolutely erroneous and the learned Sessions Judge has gravely erred in enhancing the amount of interim maintenance. It is submitted that the order of the learned Sessions Judge, Sirsa is liable to be set aside and that of the learned Judicial Magistrate Ist Class is liable to be restored. In any case, it is submitted that the application is not liable to be allowed from the date of filing but from the date of order only.

After giving my thoughtful consideration to the contentions of the learned counsel and perusing the record it may be noticed that the learned Sessions Judge has taken into account the revenue records and passed the order granting maintenance from the date of application. The learned Judicial Magistrate had merely observed that the land was 'Barani'. This, on the basis of revenue record, has been observed to be not the correct position. The grant of maintenance in the circumstances @ Rs.2,500/- per month from the date of application is sound and calls for no interference in exercise of the inherent jurisdiction of this Court under Section 482 Cr.P.C.

[3]

Consequently, there is no merit in this petition and the same is dismissed.

November 5, 2007.

(S.S. Saron)
Judge

hsp